



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced	<b>01/08/02</b>	Bill No:	<b>AB 1768</b>
Tax:	<b>Cigarette and Tobacco Products</b>	Author:	<b>Wayne</b>
Board Position:		Related Bills:	

### **BILL SUMMARY**

This bill would provide that the 0.85 percent cigarette distributor discount only applies to the first \$0.10 of the value of the stamp or meter impression.

### **ANALYSIS**

#### **Current Law**

Pursuant to Revenue and Taxation Code Section 30101 (Cigarette and Tobacco Products Tax Law), an excise tax of 6 mills (or 12 cents per package of 20) is imposed on each cigarette distributed. In addition, Sections 30123 and 30131.2 impose a surtax of 12 1/2 mills (25 cents per package of 20) and 25 mills (50 cents per package of 20), respectively, on each cigarette distributed. The current total tax on cigarettes is 43 1/2 mills per cigarette (87 cents per package of 20).

Section 30161 of the Cigarette and Tobacco Products Law generally provides that the cigarette tax imposed with respect to the distribution of cigarettes shall be paid by distributors through the use of stamps or meter impressions. Section 30163 requires that an appropriate stamp or meter impression be affixed to, or made on, each package of cigarettes prior to distribution of the cigarettes, except as otherwise provided.

Currently, Section 30166 of the Cigarette and Tobacco Products Tax Law provides that stamps and meter register settings be sold to licensed distributors at their denominated values less 0.85 percent. The discount is intended to help defray the cost (leasing of equipment/labor cost) to the distributor for affixing the stamps.

Of the 87 cent excise taxes imposed on a package of 20 cigarettes, 2 cents go to the Breast Cancer Fund, 10 cents to the General Fund, 25 cents to the Cigarette and Tobacco Products Surtax Fund, and 50 cents to the California Children and Families Trust Fund.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

### Proposed Law

This bill would amend Section 30166 to provide that stamps and meter register settings be sold to licensed distributors at their denominated values, less 0.85 percent of the first ten cents (\$0.10) of their values.

### In General

The distributor discount per roll of stamps (30,000 stamps) since August 1, 1967 is as follows:

Period	Tax Increase Pursuant To:	Stamp Value*	Roll Value**	Licensed Distributors Discount	Discount Amount Per Roll
08/01/67-09/30/67	SB 556	\$0.07	\$2,100	.85 percent	\$17.85
10/01/67-12/31/88	SB 556	\$0.10	\$3,000	.85 percent	\$25.50
01/01/89-12/31/93	Proposition 99	\$0.35	\$10,500	.85 percent	\$89.25
01/01/94-12/31/98	AB 3601	\$0.37	\$11,100	.85 percent	\$94.35
1/1/99-Current	Proposition 10	\$0.87	\$26,100	.85 percent	\$221.85

\*Per package of 20 cigarettes

\*\*One roll is equivalent to 30,000 stamps

### Background

In 1960, Assembly Bill 11 (Ch. 12) added Section 30194 to the Revenue and Taxation Code to provide, in part, a 2 percent discount on purchases of tax indicia. In 1961, Assembly Bill 714 (Chapter 884, Stats. 1961) repealed Section 30194 and added Section 30166, which provided that stamps and meter register setting shall be sold at their denominated values less 2 percent to licensed distributors.

Senate Bill 556 (Ch. 963, Stats. 1967) amended Section 30166 to lower the discount provided to licensed distributors from 2 percent to .85 percent.

During the 1984 Legislative Sessions, Senate Bill 1108, which provided for an annual adjustment in the percentage discount based on an inflation adjustment factor, was passed by the Legislature, but vetoed by the Governor. Governor Deukmejian's veto message states, in part, the following:

"While I recognize that discount rates connected with affixing stamps and meter register settings have remained unchanged for many years despite inflation, I believe the adjustments proposed by this bill would sustain a practice which may

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

no longer be needed. Further, adjusting the discount rates would result in a substantial benefit to cigarette distributors at the direct expense of local governments and California taxpayers."

In 1985, Senate Bill 1640 (1985), a bill substantially similar to SB 1108, was introduced. However, that bill failed to pass from its house of origin by the deadline.

## COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Governor Davis and the American Heart Association and is intended to provide licensed distributors the same discount available before Proposition 99 was approved by voters. The revenue gained by this measure is intended to be distributed in the same proportion as current cigarette tax proceeds are distributed; to the Breast Cancer Fund, General Fund, Cigarette and Tobacco Products Surtax Fund, and California Children and Families Trust Fund.
2. **The revenue increase associated with this measure could be delayed.** In anticipation that this measure will successfully pass and the discount reduced, cigarette distributors could stockpile stamps at the current discount rate. By stockpiling stamps purchased at the current discount rate, distributors could delay having to purchase stamps at the reduced discount rate until those stockpiles are exhausted. An inventory stockpiling could translate into delayed revenue gains for the Breast Cancer Fund, General Fund, Cigarette and Tobacco Products Surtax Fund, and California Children and Families Trust Fund, money that is anticipated as part of the Board's revenue estimate (below).
3. **The Board staff does not foresee any administrative problems with this measure.** This measure would simply reduce the discount provided to licensed distributors for purchases of stamps and meter register settings. Accordingly, enactment of this measure would not affect the Board's administration of the Cigarette and Tobacco Products Tax Law.

## COST ESTIMATE

The administrative costs associated with this bill would be absorbable. These costs would include notifying distributors, revising forms, responding to inquiries from the distributors, and monitoring refunds based on the value of the stamp.

## REVENUE ESTIMATE

### Background, Methodology, and Assumptions

According to the Excise Taxes Division of the Special Taxes Department, 1,288 million packages of cigarettes were distributed during fiscal year 2000-2001. Based on this information, the revenue impact from reducing the distributor's discount as proposed by this measure would be as follows:

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

Revenue Effect

Fiscal Year 2000-2001 packages distribution	1,288 million
Current rate per pack	\$0.87
0.85% distributor discount	\$9.5 million
Proposed rate per pack	\$0.10
0.85% distributor discount	\$1.1 million
Reduction in distributor discount	<u>\$8.4 million</u>

**Revenue Summary**

This bill would reduce the discount given to cigarette and tobacco distributors for a revenue gain of \$8.4 million. The revenue gain would be distributed as follows:

Breast Cancer Fund:	\$0.192 million
General Fund:	\$0.965 million
Cigarette and Tobacco Products Surtax Fund:	\$2.415 million
California Children and Families Trust Fund:	<u>\$4.828 million</u>
	<u>\$8.400 million</u>

Analysis prepared by:	Cindy Wilson	445-6036	01/25/02
Revenue prepared by:	Ron Ridley	445-0840	
Contact:	Margaret S. Shedd	322-2376	

sf 1768-1CW.DOC

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*